

REMARKS

In the Office Action mailed July 2, 2007, the Examiner required restriction to one of the following inventions:

Group I: Claims 1-6, 9-12, 22, 23, 25-30, and 39-72, drawn to soybean seeds exhibiting altered oil compositions and soybean plants that produce such seeds and nucleic acids capable of suppressing expression of FAD2, FAD3, or FATB genes and increasing expression of beta-ketoacyl-ACP synthase I, beta-ketoacyl-ACP synthase IV or delta-9-desaturase genes. If this group is selected, there is an additional election of species requirement.

Species A: suppression of expression of FAD2 and increase in expression of beta-ketoacyl-ACP synthase I.

Species B: suppression of expression of FAD2 and increase in expression of beta-ketoacyl-ACP synthase IV.

Species C: suppression of expression of FAD2 and increase in expression of delta-9-desaturase.

Species D: suppression of expression of FAD3 and increase in expression of beta-ketoacyl-ACP synthase I.

Species E: suppression of expression of FAD3 and increase in expression of beta-ketoacyl-ACP synthase IV.

Species F: suppression of expression of FAD3 and increase in expression of delta-9-desaturase.

Species G: suppression of expression of FATB and increase in expression of beta-ketoacyl-ACP synthase I.

Species H: suppression of expression of FATB and increase in expression of beta-ketoacyl-ACP synthase IV.

Species I: suppression of expression of FATB and increase in expression of delta-9-desaturase.

Group II: Claims 7 and 13-21, drawn to soybean oil with increased oleic acid content and reduced saturated and polyunsaturated fatty acid content.

Group III: Claim 8, drawn to soybean meal.

Group IV: Claim 24, drawn to feedstock.

Group V: Claims 31-38, drawn to a method of altering the oil composition of a plant or plant cell or seed.

Applicants respectfully traverse the restriction requirement and provisionally elect the subject matter of Group I, presented in Claims 1-6, 9-12, 22, 23, 25-30, and 39-72, drawn to soybean seeds exhibiting altered oil compositions and soybean plants that produce such seeds and nucleic acids capable of suppressing expression of FAD2, FAD3, or FATB genes and increasing expression of beta-ketoacyl-ACP synthase I, beta-ketoacyl-ACP synthase IV or delta-9-desaturase genes, for further prosecution. Applicants further provisionally elect Species B within Group I, drawn to suppression of expression of FAD2 and increase in expression of beta-ketoacyl-ACP synthase IV. Applicants, however, submit that the Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that the complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP §803 directs, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that, at least, Groups I and V should be examined simultaneously because they are related as a process of making and a product made by the process. The Examiner alleges that Martin *et al.* teaches a soybean oil from a mutant soybean plant called “A5” which has increased oleic acid content, a reduced saturated fatty acid content and a reduced polyunsaturated fatty acid content compared to a wild-type soybean variety. Office Action at page 3. Thus, the Examiner argues that the technical feature linking the inventions of Groups I-V does not constitute a special technical feature as defined by PCT Rule 13.2 as it does not define a contribution over the prior art. Applicants respectfully submit that the Examiner has

mistaken the claimed common technical feature of Groups I-V and the technical feature described in Martin *et al.* to be the same.

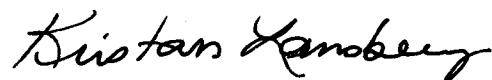
Similarly, Applicants contend that, at least, Species A-I within Group I should be examined simultaneously because they all possess the common technical feature involving the suppression of expression of a gene (FAD2, FAD3, FATB) in the lipid biosynthesis (Kennedy) pathway and an increase in expression of a gene (beta-ketoacyl-ACP synthase I, beta-ketoacyl-ACP synthase IV, delta-9-desaturase) in the fatty acid synthetase (FAS) pathway. See Specification at page 1, line 28 to page 2, line 25. The Examiner alleges that the technical feature linking the species does not constitute a special technical feature as defined by PCT Rule 13.2 because Chapman *et al.* teach a DNA construct that is effective for the suppression of the expression of an endogenous FAD2 gene and Singh *et al.* teach the expression of an epoxygenase gene that modified fatty acid composition. Office Action at page 6. Applicants respectfully submit that the Examiner has mistaken the common technical feature of Species A-I and the combination of technical features described in Chapman *et al.* and Singh *et al.* to be the same.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. In order to facilitate prosecution, however, Applicants have provisionally elected, with traverse, the subject matter of Group I, presented in claims 1-6, 9-12, 22, 23, 25-30, and 39-72, drawn to soybean seeds exhibiting altered oil compositions and soybean plants that produce such seeds and nucleic acids capable of suppressing expression of FAD2, FAD3, or FATB genes and increasing expression of beta-ketoacyl-ACP synthase I, beta-ketoacyl-ACP synthase IV or delta-9-desaturase genes, for further prosecution. Furthermore, in order to facilitate prosecution, Applicants have withdrawn claims 7-8, 13-21, 24, and 31-38 without prejudice or disclaimer to the subject matter disclosed therein by way of the present amendment. It is noted that these claims have been withdrawn as directed to non-elected inventions. Regardless, Applicants reserve the right to prosecute the non-elected inventions in continuing applications. As such, claims 1-6, 9-12, 22, 23, 25-30, and 39-72 are currently pending. No new matter enters by this amendment.

CONCLUSION

In view of the above, each of the presently pending claims is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. The Examiner is encouraged to contact the undersigned at (202) 942-5186 should any additional information be necessary for allowance.

Respectfully submitted,



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